

1 APPEARANCES: (CONT'D.)

2 CHARLES DAVIS

BROWN, HAY & STEPHENS

3 205 S. Fifth

Suite 700

4 Springfield, Illinois 62701

5 (Appearing on behalf of
Respondent.)

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I N D E X

WITNESSES

DIRECT

CROSS

None

EXHIBITS

None.

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PROCEEDINGS

JUDGE VON QUALEN: By the authority vested in me by the Illinois Commerce Commission, I now call Docket No. 12-0357. This docket concerns the complaint filed by C. John Mann against Ameren Illinois Company doing business as Ameren Illinois. The complaint concerns allegations of incorrect billing for service at 1105 South Douglas, Urbana, Illinois.

May I have the appearances for the record, first on behalf of the complainant?

Mr. Mann, please give your name and address.

MR. MANN: Beg your pardon?

JUDGE VON QUALEN: Please provide your name and address.

MR. MANN: C. John Mann, 1105 South Douglas Avenue, Urbana, Illinois 61801. Phone number (217) 819-0685.

JUDGE VON QUALEN: Thank you.

And on behalf of the respondent?

MR. DAVIS: Charles Davis. I represent Ameren

1 Illinois Company. I'm with the law firm of Brown,
2 Hay & Stephens. My contact information is the same
3 as I previously provided in this matter.

4 I also have Trish Spinner, a
5 regulatory specialist, and Amanda Tesdale, a
6 paralegal with Ameren is also on the line.

7 JUDGE VON QUALEN: Thank you.

8 Are there any others wishing to enter
9 an appearance?

10 Let the record show that there are
11 not.

12 This matter comes on for a status this
13 morning. I have received from the respondent a
14 combined motion to dismiss and motion for an
15 extension of time.

16 Mr. Mann, the schedule provided for
17 your testimony to be filed on or before August 15th,
18 and I have not received a copy of the testimony. I
19 have not seen one filed on e-Docket, and it's my
20 understanding that Ameren has not seen a copy of the
21 testimony.

22 What is the status of your direct

1 testimony?

2 MR. MANN: As I understand it, I submitted all
3 of that to you on the 15th of August. I received the
4 copies back from your office, Judge Von Qualen, with
5 a letter but no explanation simply saying...there was
6 nothing said actually, whereas the one copy that I
7 sent to Mr. Davis, I did receive a receipt from.

8 MR. DAVIS: Mr. Mann, this is Charles Davis.
9 You're not referencing a response to Ameren's data
10 requests, are you?

11 MR. MANN: No.

12 MR. DAVIS: Okay.

13 JUDGE VON QUALEN: Well, Mr. Mann, I'm not sure
14 what you're referencing, but I have not received any
15 testimony, and I have not seen that any has been
16 filed at the clerk's office.

17 If you indeed attempted to file the
18 testimony and it was returned to you...

19 MR. MANN: Yes.

20 JUDGE VON QUALEN: ...then I would suggest that
21 you telephone the clerk's office and find out what
22 happened with your testimony.

1 Mr. Davis, did you receive a copy of
2 testimony from Mr. Mann?

3 MR. DAVIS: I did not receive a copy of
4 testimony.

5 JUDGE VON QUALEN: Have you received --

6 MR. MANN: Now, may I question what you mean by
7 my testimony? Do you mean what I was going to give
8 today?

9 JUDGE VON QUALEN: We discussed at the
10 prehearing conference a schedule for testimony.

11 MR. MANN: Correct.

12 JUDGE VON QUALEN: I explained that testimony
13 here at the Illinois Commerce Commission is prefiled
14 which means that written testimony is provided to the
15 clerk's office, served on the ALJ and the parties to
16 the matter in advance of a hearing.

17 MR. MANN: Correct.

18 JUDGE VON QUALEN: We do not have live
19 hearings. We set a schedule for you to file your
20 testimony. You being the complainant, you would file
21 your testimony first.

22 I have not received any testimony.

1 My question to you is when will you
2 file direct testimony?

3 MR. MANN: I was expecting the discovery before
4 I filed my testimony. I have not received any
5 answers to the questions that I submitted to
6 Mr. Davis on the next to the last day of July.

7 However, I could not reach him by
8 telephone subsequently, and so it was the second day
9 of August that I actually contacted him and submitted
10 the questions to him by mail.

11 MR. DAVIS: Judge, if I may, I do acknowledge
12 that Ameren Illinois did receive some data requests
13 from Mr. Mann, and it was very close to the date that
14 his direct testimony was due. Then the direct
15 testimony date passed and he did not file any direct
16 testimony.

17 My suggestion would be that I would be
18 able to respond to Mr. Mann's data requests within
19 the next seven days. We are happy to do so, and then
20 I'd seek his feedback on how long after that date he
21 would need to file direct testimony.

22 JUDGE VON QUALEN: Mr. Mann, how much time

1 would you need after receiving those data request
2 responses to prepare --

3 MR. MANN: If I receive them within seven days,
4 I will reply within four days thereafter.

5 JUDGE VON QUALEN: And when you say you will
6 reply, do you mean that you will file direct
7 testimony here at the Illinois Commerce Commission?

8 MR. MANN: Yes, ma'am.

9 JUDGE VON QUALEN: All right. Then it's my
10 understanding that the parties are agreed that Ameren
11 will provide Mr. Mann with responses to his data
12 requests on or before September 19th. Is
13 that correct?

14 MR. DAVIS: Yes, Your Honor.

15 JUDGE VON QUALEN: And, Mr. Mann, you could
16 file testimony here at the Commission on or before
17 September 26th?

18 MR. MANN: Yes, ma'am.

19 JUDGE VON QUALEN: Mr. Davis, how much time
20 would Ameren need to file responsive testimony?

21 MR. DAVIS: I would ask that Ameren have three
22 weeks in order to be able to have the time to

1 distribute Mr. Mann's testimony to all the people we
2 need to in our company and produce testimony.

3 JUDGE VON QUALEN: That would be October 17th?

4 MR. DAVIS: Yes that would work.

5 JUDGE VON QUALEN: Mr. Mann, is it your
6 intention to serve Ameren and the clerk's office with
7 your testimony by U.S. mail?

8 MR. MANN: Yes, ma'am.

9 JUDGE VON QUALEN: Does that three weeks work
10 if the testimony is received by mail which means you
11 may not receive it until sometime after the 26th?

12 MR. DAVIS: I think your point is well-taken.
13 It may be easier to -- well, I'll tell you...so we
14 currently have set as our deadline the 17th?

15 JUDGE VON QUALEN: Yes.

16 MR. DAVIS: Can we just name the following
17 Monday as Ameren's deadline just in case there's a
18 mail delay or something?

19 JUDGE VON QUALEN: Yes.

20 MR. DAVIS: So that would be the 22nd.

21 JUDGE VON QUALEN: October 22nd then for Ameren
22 to file its responsive testimony.

1 Then, Mr. Mann, you will be given an
2 opportunity to file one more round of testimony in
3 case you have anything in addition that you want to
4 submit that is responsive to Ameren's submission.

5 How much time would you need to file
6 your rebuttal testimony?

7 MR. MANN: I'm sorry. I missed the last part
8 of your statement.

9 JUDGE VON QUALEN: How much time would you need
10 after Ameren filed its testimony to file any
11 responsive testimony?

12 MR. MANN: Probably a week.

13 JUDGE VON QUALEN: All right. How about if I
14 give you until October 31st. It gives you a little
15 more than a week, but given that service is by mail,
16 that will take care of any delay that will happen in
17 you receiving the testimony.

18 MR. MANN: Yes, that's absolutely correct. You
19 should allow a little bit of time. That's fine.
20 I'll accept that, the end of October.

21 JUDGE VON QUALEN: Okay. October 31st.

22 And then as we discussed previously,

1 we will need to set it for an evidentiary hearing.

2 MR. MANN: Yes.

3 JUDGE VON QUALEN: I would suggest waiting
4 about a week for the evidentiary hearing, maybe
5 November 8th.

6 Would that work for you, Mr. Davis?

7 MR. DAVIS: I would request an additional week.
8 I will be just returning from vacation at that time,
9 if that's possible.

10 JUDGE VON QUALEN: Okay. How about
11 November 14th. That's a Wednesday the following
12 week.

13 MR. DAVIS: That date will work for me, for
14 Ameren.

15 JUDGE VON QUALEN: Mr. Mann, would
16 November 14th work for you for an evidentiary
17 hearing?

18 MR. MANN: Absolutely.

19 JUDGE VON QUALEN: All right. We'll set it for
20 November 14 at 10 a.m.

21 I would like the parties to contact
22 each other prior to the hearing and make a

1 determination whether there will be questions, cross
2 questions at the hearing, and let me know about that.

3 Mr. Mann, to the extent there will be
4 live testimony on November 14th, your presence will
5 be required as will the witness for Ameren's presence
6 be required if there's going to be questions.

7 MR. MANN: Yes.

8 JUDGE VON QUALEN: It's possible that I will
9 have questions as well, so what I would like is I
10 would like, Mr. Davis, if you could contact Mr. Mann
11 and perhaps send me an e-mail indicating whether or
12 not there will be testimony on the 14th in advance of
13 that day.

14 MR. DAVIS: I am amenable to that, Judge.

15 Mr. Mann, to me it's much easier if
16 the two of us just schedule a date and a time where
17 we can speak on the phone to discuss what the judge
18 just mentioned here.

19 Would it be possible for you to speak
20 on the phone with me and I can call you on
21 November 9th which is a Friday at pretty much any
22 time. You pick the time.

1 MR. MANN: As far as I'm concerned, it can be
2 any time on the 9th.

3 MR. DAVIS: How about 9 a.m.?

4 MR. MANN: Beg your pardon?

5 MR. DAVIS: How about 9 a.m.?

6 MR. MANN: Excellent.

7 MR. DAVIS: Okay. I will call you on that date
8 and time at 9 a.m., and just to be clear, can you
9 give me your best phone number again?

10 MR. MANN: Yes. Area (217)819-0685.

11 MR. DAVIS: Thank you.

12 JUDGE VON QUALEN: All right then. To recap
13 what we've discussed this morning, Ameren will
14 provide responses to Mr. Mann's DRs to him on or
15 before September 19th.

16 Mr. Mann will file his direct
17 testimony on or before September 26th and will serve
18 that on the clerk's office here, on me, the
19 Administrative Law Judge, and on Ameren's attorney,
20 Mr. Davis.

21 On October 22nd, Ameren will file its
22 responsive testimony, and on October 31st, the

1 complainant will file his rebuttal testimony and
2 serve the parties.

3 We've set this for an evidentiary
4 hearing on November 14th at 10 a.m., and prior to the
5 hearing, the complainant and respondent will
6 communicate as to whether or not they intend to have
7 cross-examination at the hearing and will inform me
8 as to what is anticipated.

9 Is there anything else that we need to
10 discuss this morning?

11 MR. DAVIS: Nothing further from Ameren.

12 MR. MANN: I would like Mr. Davis's dates that
13 he will be on vacation.

14 MR. DAVIS: Let me look at my calendar here.

15 I will essentially be out from
16 November 29th to -- I'm sorry, October 29th to
17 November 2nd. It's that week.

18 MR. MANN: October 29th to November 2nd?

19 MR. DAVIS: Yeah. That work week I'll be out
20 of the office.

21 MR. MANN: Fine.

22 And I should be able to contact you

1 then any time other than that, is that right?

2 MR. DAVIS: Yes, that's correct.

3 MR. MANN: That's fine with me then.

4 JUDGE VON QUALEN: All right. Is there
5 anything further that needs to be discussed?

6 Then I will continue this matter to
7 November 14, 2012 at 10 a.m.

8 (Whereupon the hearing was
9 continued to November 14, 2012
10 at 10:00 a.m.)

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